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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/602,174	06/24/2003	Shigeru Sugaya	7217/69504	9447

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LERNER, DAVID, LITTENBERG,
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WESTFIELD, NJ 07090

EXAMINER

ROSE, KERRI M

ART UNIT	PAPER NUMBER
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2616

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/20/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/602,174	Applicant(s) SUGAYA, SHIGERU	
	Examiner Kerri M. Rose	Art Unit 2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>11/27/06; 7/10/06</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 13-17 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. A computer program is not statutory. Please consult the guidelines available at

http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/guidelines101_20051026.pdf for more information on how to claim computer readable media.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-5, 7-9, 11-14, 16, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Dail et al. (US 5,570,355).
5. In regards to claim 1 Dail discloses a system for wireless communication (col. 27 lines 3-10) having an asynchronous access region (col. 7 line 44) and a channel-time-allocation access region (col. 7 line 43), comprising means for initiating information communication in the

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asynchronous access region (col. 9 line 14-17) and for allocating channel time in excess of a predetermined transmission capacity (col. 9 line 17-20).

6. In regards to claim 2, Dail discloses a system for wireless communication (col. 27 lines 3-10) comprising means for releasing channel time below a predetermined transmission capacity during a channel time allocation communication (fig. 23).

7. In regards to claims 3, 4, and 13 Dail discloses a wireless system (col. 27 lines 3-10), method, and computer program (col. 11 lines 9-11) comprising: request receiving means for receiving at least one of a channel time allocation request and a channel time release request from another wireless communication device in the wireless network (col. 11 lines 41-43); and frame setting means for setting the asynchronous access region and the channel-time-allocation access region during the predetermined frame period using the received at least one of the channel time allocation request and the channel time release request (col. 11 lines 44 and 45).

8. In regards to claims 5, 9, and 14 Dail discloses a wireless system (col. 27 lines 3-10), method, and computer program (col. 11 lines 9-11) comprising: asynchronous access control means; channel time allocation communication control means; transmission information storing means; transmission capacity determining means; and channel time request means. Figures 11, 12, and column 16 lines 34-57 illustrate the bandwidth controller and how bandwidth is divided between the requesting stations.

9. In regards to claims 7, 11, and 16 Dail discloses a wireless system (col. 27 lines 3-10), method, and computer program (col. 11 lines 9-11) of claims 5, 9, and 14 wherein the channel time request means sends the channel time allocation request to the control station when the amount of information stored in the transmission information storing means exceed the amount

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of information determined by the transmission capacity determined means while the channel time allocation communication control means is transmitting the information in the asynchronous access region (fig. 15 and col. 19 lines 1-13).

10. In regards to claims 8, 12, and 17 Dail discloses a wireless system (col. 27 lines 3-10), method, and computer program (col. 11 lines 9-11) of claims 5, 9, and 14 wherein the channel time request means sends the channel time release request to the control station when the amount of information stored in the transmission information storing means is below the amount of information determined by the transmission capacity determined means while the channel time allocation communication control means is transmitting the information in the channel time allocation access region (fig. 23 illustrates the release of call resources).

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 6, 10, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dail et al. (US 5,570,355) in view of Lumelsky (US 2004/0166812).

13. In regards to claims 6, 10, and 15 Dail discloses a wireless system (col. 27 lines 3-10), method, and computer program (col. 11 lines 9-11) of claims 5, 9, and 14, but not wherein the transmission capacity of the asynchronous region is determined by dividing an overall bandwidth of the asynchronous region by a number of wireless devices forming the wireless network.

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Lumelsky discloses determining the transmission capacity by dividing the overall capacity by the number of devices in the network in paragraph 69.

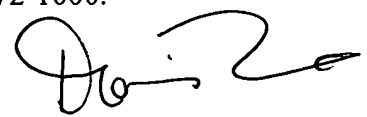
It would have been obvious to one of ordinary skill in the art to determine the capacity of the region taught by Dail using the method taught by Lumelsky because doing so provides a network that can be flexibly expanding without high costs, as disclosed by Lumelsky in paragraph 26.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kerri M. Rose whose telephone number is (571) 272-0542. The examiner can normally be reached on Monday through Thursday, 7:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doris H. To can be reached on (571) 272-7629. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


DORIS H. TO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

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